

## REMARKS

Claims 1-9 and 21-28 are pending in the application. Claims 10-20 were previously canceled, in response to a Restriction Requirement. Claims 1, 21, and 28 are the only independent claims.

### *Specification*

The specification has been amended to provide antecedent basis for language added to claim 1 herein. The new language is not new matter. The specification and drawings clearly disclose a balloon having spacer rods (30) connecting end members (26 and 28) to one another so that the end members and the spacer rods are parts of the same unitary balloon structure (16) and so that the end members communicate with one another via the spacer member.

### *Claims Rejections - 35 U.S.C. §§ 102 and 103*

Claims 1, 2, 6, 7, and 9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,409,723 to Edwards.

Claims 3-5 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Edwards in view of U.S. Patent No. 5,634,883 to Chin et al.

**Claim 1** Applicant respectfully traverses the rejection of claim 1 under 35 U.S.C. § 102(e) and maintains that claim 1 is distinguishable over that reference. To clarify a difference between applicant's invention and the prior art, particularly the device of Edwards, applicant amends claim 1 herein to provide a more detailed exposition as to the structure of applicant's device.

As set forth in amended claim 1, an endoscopic retractor instrument assembly comprises (a) an insertion or deployment tube insertable through a channel of an endoscopic instrument, (b) a balloon or bladder having a pair of expandable or inflatable end portions and at least one expandable or inflatable spacer portion connecting the end portions to one another, the balloon or bladder being disposed in a collapsed configuration inside the tube; and (c) inflation means operatively coupled with the

balloon or bladder for inflating the balloon or bladder from the collapsed configuration to an expanded use configuration in which the spacer portion pushes the end portions apart from one another. The spacer portion connects the end portions to one another so that the end portions and the spacer portion are parts of the same unitary balloon structure and so that the end portions communicate with one another via the spacer portion.

Edwards discloses a medical treatment device comprising a catheter (110) carrying three distinct balloons, namely, a distal balloon (113), a proximal balloon (114), and a treatment balloon (115) therebetween. These balloons are not integral parts of the same balloon. These balloons do not define a unitary balloon structure. There is no teaching in the Edwards reference that the three balloons communicate with one another. Inasmuch as the three balloons have different functions, one of ordinary skill in the art would not consider connecting the balloons together so that they are portions of the same balloon, communicating with one another.

The Examiner maintains that the central balloon (115) of the Edwards device may be inflated so as to push the distal and proximal balloons (113, 114) apart. This would only be possible if one were willing to destroy the functioning of the Edwards device as disclosed. One of ordinary skill in the art would not be so inclined. Edwards specifically states that the balloons (113, 114, 115) have predetermined shapes. In particular, the central treatment balloon (115) has a cylindrical shape adapted for its specific function. Overly inflating the central treatment balloon (115) would deform the balloon so that it no longer has that desired shape. Again, one of ordinary skill in the art would not so modify the disclosed structure and operation of the Edwards device.

Applicant further incorporates herein arguments made in the previous amendment filed May 3, 2004.

Claims 21 and 28 have been allowed. Claims 22-27 have been amended to depend from claim 21 rather than canceled claim 20.


***Conclusion***

For the foregoing reasons, independent claims 1, 21, and 28, as well as the claims dependent therefrom, are deemed to be in condition for allowance. An early Notice to that effect is earnestly solicited.

Should the Examiner believe that direct contact with applicant's attorney would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the number below.

Respectfully submitted,

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